

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

DEVON D. ARCHER, BEVAN T. COONEY,  
HUGH DUNKERLEY, JASON W. GALANIS,  
JOHN P. GALANIS, GARY T. HIRST, and  
MICHELLE A. MORTON,

Defendants

**DEFENDANT DEVON D.  
ARCHER'S ANSWER TO  
THE COMPLAINT**

16 Civ. 3505 (WHP) (AJP)

Filed Electronically

Devon D. Archer ("Mr. Archer"), by his attorneys Boies, Schiller & Flexner LLP, for his answer to the Complaint of Plaintiff the Securities and Exchange Commission ("SEC"), states as follows:

Mr. Archer looks forward to defending himself in this action. The purported evidence cited by the SEC in its Complaint is, with respect to Mr. Archer, often incompletely and misleadingly quoted and incorrectly described. However, on the advice of his undersigned counsel, with respect to certain of the SEC's allegation, Mr. Archer asserts his constitutional right not to respond. Because the SEC's Complaint is comprised of mere allegations, and not evidence, no adverse inference may be drawn from Mr. Archer's invocation of his rights, at the instruction of counsel. *See generally LaSalle Bank Lake View v. Seguban*, 54 F.3d 387, 390-91 (7th Cir. 1995); *OS Recovery, Inc. v. One Groupe Int'l, Inc.*, No. 02 Civ. 8993 (LAK), 2005 WL 850830, at \*1 (S.D.N.Y. Apr. 12, 2005). Mr. Archer reserves the right to amend this Answer if and when the "partial stay" is lifted in this case.

### **SUMMARY OF THE ALLEGATIONS**

1. Paragraph 1 contains Plaintiff's summary of the action—a summary that does not mention Mr. Archer—to which no response is required. To the extent that a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

2. Paragraph 2 contains a summary of the action to which no response is required. To the extent that this paragraph purports to quote conversations or documents, Mr. Archer respectfully refers the Court to those documents or conversations, which speak for themselves. To the extent that a further response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

3. Paragraph 3 contains Plaintiff's summary of the action, to which no response is required. To the extent that a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

4. Paragraph 4 contains Plaintiff's summary of the action, to which no response is required. To the extent that a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

5. Paragraph 5 contains Plaintiff's summary of the action, to which no response is required. To the extent that a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

6. Paragraph 6 contains Plaintiff's summary of the action, to which no response is required. To the extent that this paragraph purports to quote or describe documents, Mr. Archer respectfully refers the Court to those documents, which speak for themselves. To the extent that a further response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

7. Paragraph 7 contains Plaintiff's summary of the action, to which no response is required. To the extent that a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

8. On information and belief, Mr. Archer admits the allegations contained in Paragraph 8, specifically, that Jason Galanis, John Galanis, and other were charged criminally in or about September 2015. On information and belief, Jason Galanis and John Galanis have now pleaded guilty in connection with that matter.

9. Paragraph 9 contains Plaintiff's summary of the action, to which no response is required. To the extent that a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

### **VIOLATIONS**

10. Paragraph 10 contains conclusions of law to which no response is required. To the extent a response is required, Mr. Archer denies the allegations contained in Paragraph 10.

11. Paragraph 11 consists of conclusions of law to which no response is required.

12. Paragraph 12 consists of conclusions of law to which no response is required. To the extent a response is required, Mr. Archer denies the allegations contained in Paragraph 12.

13. Paragraph 13 consists of conclusions of law to which no response is required.

### **JURISDICTIONA AND VENUE**

14. Paragraph 14 consists of a description of the Plaintiff's purported jurisdiction and the relief sought by the Plaintiff, to which no response is required.

15. Paragraph 15 consists of conclusions of law to which no response is required. To the extent a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

**DEFENDANTS**

16. On information and belief, Mr. Archer admits the allegations in Paragraph 16, except denies that Jason Galanis resides in Los Angeles, California. Upon information and belief, Jason Galanis resides in the Metropolitan Correctional Center in New York, New York. According to the Bureau of Prisons' website, Jason Galanis is 46 years old.

17. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17.

18. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond to the allegations in Paragraph 18, except admits that he 42 years old and resides in Brooklyn.

19. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19.

20. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20.

21. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21.

22. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22.

**OTHER RELEVANT ENTITIES**

23. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

24. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24.

25. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

26. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond, except admits, upon information and belief, that Atlantic Asset Management was the subject of a civil action filed by the SEC and is now in receivership.

### **FACTS**

27. Paragraph 27 contains a summary of the action to which no response is required. To the extent a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

28. Paragraph 28 contains Plaintiff's summary of the action, to which no response is required. To the extent that this paragraph purports to quote or describe documents, Mr. Archer respectfully refers the Court to those documents, which speak for themselves. To the extent that a further response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

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87. Paragraph 87 contains only a sentence fragment, with no factual allegations to which a response is required.

88. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

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107. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

108. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

109. On information and belief, Mr. Archer admits the allegations contained in Paragraph 109, specifically, that Jason Galanis, John Galanis, and other were the subject of a civil lawsuit by the SEC and criminal charges in or about September 2015. On information and belief, Jason Galanis and John Galanis have now pleaded guilty in connection with that matter.



110. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

111. To the extent that this paragraph purports to quote or describe documents, Mr. Archer respectfully refers the Court to those documents, which speak for themselves. To the extent that a further response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

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118. Upon information and belief, Mr. Archer admits that the SEC filed a lawsuit against Atlantic Asset Management on or about December 15, 2015, and that the Court appointed a monitor over AAM.

119. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 119.

#### **FIRST CLAIM FOR RELIEF**

120. Mr. Archer incorporates his responses to Paragraphs 1 through 119.

121. Paragraph 121 states conclusions of law and legal assertions to which no response is required.

122. Paragraph 122 states conclusions of law and legal assertions to which no response is required.

123. Paragraph 123 states conclusions of law and legal assertions to which no response is required.

124. Paragraph 124 states conclusions of law and legal assertions to which no response is required.

#### **SECOND CLAIM FOR RELIEF**

125. Mr. Archer incorporates his responses to Paragraphs 1 through 119.

126. Paragraph 126 states conclusions of law and legal assertions to which no response is required.

127. Paragraph 127 states conclusions of law and legal assertions to which no response is required.

128. Paragraph 128 states conclusions of law and legal assertions to which no response is required.

129. Paragraph 129 states conclusions of law and legal assertions to which no response is required.

130. Paragraph 130 states conclusions of law and legal assertions to which no response is required.

131. Paragraph 131 states conclusions of law and legal assertions to which no response is required.

### **THIRD CLAIM FOR RELIEF**

132. Mr. Archer incorporates his responses to Paragraphs 1 through 119.

133. Paragraph 133 states conclusions of law and legal assertions to which no response is required.

134. Paragraph 134 states conclusions of law and legal assertions to which no response is required.

135. Paragraph 135 states conclusions of law and legal assertions to which no response is required.

### **FOURTH CLAIM FOR RELIEF**

136. Mr. Archer incorporates his responses to Paragraphs 1 through 119.

137. Paragraph 137 states conclusions of law and legal assertions to which no response is required.

138. Paragraph 138 states conclusions of law and legal assertions to which no response is required.

139. Paragraph 139 states conclusions of law and legal assertions to which no response is required.

### **PRAYER FOR RELIEF**

140. The paragraphs labelled I through VIII under the heading “Prayer for Relief” state the relief requested by the Plaintiff in this action, to which no response is required.

### **AFFIRMATIVE DEFENSES**

In further response, upon information and belief and subject to further investigation and discovery, Mr. Archer asserts the following affirmative defenses:

#### **FIRST AFFIRMATIVE DEFENSE**

Plaintiff fails to state a claim upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

The Complaint fails to meet the pleading requirements of the Federal Rules of Civil Procedure.

#### **THIRD AFFIRMATIVE DEFENSE**

Plaintiff’s claims for injunctive relief are barred because Plaintiff has an adequate remedy at law.

### **INCORPORATION BY REFERENCE**

Mr. Archer incorporates by reference any defense that any other defendant pleads in this action, to the extent the defense applies to any claims against Mr. Archer in whole or in part.

**RESERVATION OF RIGHTS**

Mr. Archer reserves the right to allege other defenses and affirmative defenses as they become known during the course of discovery, and hereby specifically reserves the right to amend his answer to allege such additional affirmative defenses at such time as they become known, to the extent required.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Mr. Archer demands a trial by jury on all issues so triable.

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**PRAYER FOR RELIEF**

Wherefore, Mr. Archer asks:

1. That judgment be entered in his favor and against Plaintiff;
2. That the Complaint and all claims be dismissed with prejudice;
3. For attorneys' fees and the costs of suit; and
4. For such other relief that the Court deems just and proper.

Dated: New York, New York  
August 15, 2016

BOIES, SCHILLER & FLEXNER LLP  
*Attorneys for Defendant Devon Archer*

/s/ Matthew L. Schwartz

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